IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1007 of 2005

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

AHMEDABAD JUPITER TEXTILE MILLS

Versus

RAMSING TARASING C/O. ALL GUJ. KAMDAR KARMACHARI UNION

Appearance:

1. Special Civil Application No. 1007 of 2005
NANAVATI & NANAVATI for Petitioner No. 1
MR TR MISHRA for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 27/04/2005

ORAL JUDGEMENT

1. RULE. Mr.Mishra, learned counsel waives service of notice of rule on behalf of the respondent. At the joint request of the learned advocates appearing for the

parties, the petition is taken up for final disposal today.

2. In the present petition, the petitioner has challenged the judgement dated 4-5-2004 passed by the Industrial Court, Ahmedabad, in Appeal (I.C.) No.42/2002 by which the Industrial Court was pleased to confirm the judgement and order dated 7th March, 2002, passed by the Labour Court and reject the appeal filed by the petitioner.

3. The respondent herein-the workman had approached the Labour Court against the action of the petitioner in retiring him with effect from 18th June, 2000. The Labour Court found that the action was illegal and the petitioner ought to have accepted the date of birth of the respondent of the year 1944 and accordingly, he ought to have been continued in service upto the age of 60 years as per the rules of the mills company. The Industrial Court upheld the decision of the Labour Court and rejected the appeal filed by the petitioner. The Courts below have considered the evidence on record and found that the petitioner ought to have accepted the factum of the birth of the respondent being in the year 1944. The findings recorded by the Courts below are pure findings of fact supported by evidence on record. I do not find any clinching evidence in favour of the petitioner to overturn these findings of facts and permit the petitioner to substitute the date of birth of the respondent as 19-6-1940. In the result, the petition is not required to be entertained since I do not find that the Courts below have committed any jurisdictional error.

4. Learned counsel appearing for the petitioner, however, submitted that the mills company has closed down on 1-4-2003. Learned counsel Mr.Mishra for the respondent submitted that in that view of the matter, the respondent-workman should be held entitled to all his legal dues at least upto the date of closure of the mills company. While upholding the view of the Courts below that the respondent ought to have been permitted to continue in service till the age of 60 years considering his year of birth as 1944, effect thereof shall have to be curtailed upto the date when the petitioner mills company was in operation. Consequently, the respondent shall be entitled to all his legal dues including backwages and other post retiral benefits considering him in service upto 31st March, 2003.

4. With these observation, the impugned orders are

modified accordingly. The legal dues of the respondent will be paid over within a period of six weeks from the date of receipt of copy of this order.

5. Accordingly, the petition is disposed of. Rule is discharged. No order as to costs.

(AKIL KURESHI, J.)
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